

Department of Homeland Security

§ 319.11

part 316 of this chapter, except for those contained in § 316.2(a)(3) through (a)(6) of this chapter.

[56 FR 50489, Oct. 7, 1991]

§ 319.5 Public international organizations in which the U.S. participates by treaty or statute.

Organizations designated by the President as international organizations pursuant to the International Organizations Immunities Act are considered as public international organizations in which the United States participates by treaty or statute within the meaning of section 319(b) of the Act. For a list of such organizations see § 316.20(b) of this chapter. In addition, the following have been determined to be public international organizations within the purview of section 319(b) of the Act:

The North Atlantic Treaty Organization.
The United Nations and all agencies and organizations which are a part thereof.

The regional commissioner shall forward a copy of each decision regarding a public international organization to the Assistant Commissioner, Naturalization.

[32 FR 9635, July 4, 1967. Redesignated at 33 FR 255, Jan. 9, 1968. Further redesignated and amended at 56 FR 50489, Oct. 7, 1991]

§ 319.6 United States nonprofit organizations engaged abroad in disseminating information which significantly promotes U.S. interests.

The following have been determined to be U.S. incorporated nonprofit organizations principally engaged in conducting abroad through communications media the dissemination of information which significantly promotes U.S. interests abroad within the purview of section 319(c) of the Act:

Free Europe, Inc.; formerly Free Europe Committee, Inc.; National Committee for a Free Europe (including Radio Free Europe).

Radio Liberty Committee, Inc. (formerly American Committee for Liberation, Inc.; American Committee for Liberation of the Peoples of Russia, Inc.; American Committee for Liberation from Bolshevism, Inc.).

[33 FR 255, Jan. 9, 1968. Redesignated and amended at 56 FR 50489, Oct. 7, 1991]

§§ 319.7–319.10 [Reserved]

§ 319.11 Filing of application.

(a) *General.* An applicant covered by this part shall submit to the Service an application for naturalization on Form N-400, with the required fee, in accordance with the instructions contained therein. An alien spouse applying for naturalization under section 319(b) of the Act and § 319.2 shall also submit a statement of intent containing the following information about the citizen spouse's employment and the applicant's intent following naturalization:

(1) The name of the employer and:

(i) The nature of the employer's business; or

(ii) The ministerial, religious, or missionary activity in which the employer is engaged;

(2) Whether the employing entity is owned in whole or in part by United States interests;

(3) Whether the employing entity is engaged in whole or in part in the development of the foreign trade and commerce of the United States;

(4) The nature of the activity in which the citizen spouse is engaged;

(5) The anticipated period of employment abroad;

(6) Whether the alien spouse intends to reside abroad with the citizen spouse; and,

(7) Whether the alien spouse intends to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse.

(b) *Applications by military spouses—*(1) *General.* The alien spouses of United States military personnel being assigned abroad must satisfy the basic requirements of section 319(b) of the Act and of paragraph (a) of this section.

(2) *Government expense.* In the event that transportation expenses abroad for the alien spouse are to be paid by military authorities, a properly executed Certificate of Overseas Assignment to Support Application to File Petition for Naturalization, DD Form 1278 will be submitted in lieu of the statement of intent required by paragraph (a) of this section. Any DD Form

1278 issued more than 90 days in advance of departure is unacceptable for purposes of this section.

(3) *Private expense.* In the event that the alien spouse is not authorized to travel abroad at military expense, the alien spouse must submit in lieu of the statement of intent required by paragraph (a) of this section:

(i) A copy of the citizen spouse's military travel orders,

(ii) A letter from the citizen spouse's commanding officer indicating that the military has no objection to the applicant traveling to and residing in the vicinity of the citizen spouse's new duty station; and

(iii) Evidence of transportation arrangements to the new duty station.

[56 FR 50489, Oct. 7, 1991]

PART 320—CHILD BORN OUTSIDE THE UNITED STATES AND RESIDING PERMANENTLY IN THE UNITED STATES; REQUIREMENTS FOR AUTOMATIC ACQUISITION OF CITIZENSHIP

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AUTHORITY: 8 U.S.C. 1103, 1443; 8 CFR part 2.

SOURCE: 66 FR 32144, June 13, 2001, unless otherwise noted.

§ 320.1 What definitions are used in this part?

As used in this part, the term:

Adopted means adopted pursuant to a full, final and complete adoption. If a foreign adoption of an orphan was not full and final, was defective, or the unmarried U.S. citizen parent or U.S. citizen parent and spouse jointly did not see and observe the child in person prior to or during the foreign adoption proceedings, the child is not considered to have been fully, finally and completely adopted and must be readopted in the United States. Readoption requirements may be waived if the state of residence of the United States cit-

izen parent(s) recognizes the foreign adoption as full and final under that state's adoption laws.

Adopted child means a person who has been adopted as defined above and who meets the requirements of section 101(b)(1)(E) or (F) of the Act.

Child means a person who meets the requirements of section 101(c)(1) of the Act.

Joint custody, in the case of a child of divorced or legally separated parents, means the award of equal responsibility for and authority over the care, education, religion, medical treatment, and general welfare of a child to both parents by a court of law or other appropriate government entity pursuant to the laws of the state or country of residence.

Legal custody refers to the responsibility for and authority over a child.

(1) For the purpose of the CCA, the Service will presume that a U.S. citizen parent has legal custody of a child, and will recognize that U.S. citizen parent as having lawful authority over the child, absent evidence to the contrary, in the case of:

(i) A biological child who currently resides with both natural parents (who are married to each other, living in marital union, and not separated),

(ii) A biological child who currently resides with a surviving natural parent (if the other parent is deceased), or

(iii) In the case of a biological child born out of wedlock who has been legitimated and currently resides with the natural parent.

(2) In the case of an adopted child, a determination that a U.S. citizen parent has legal custody will be based on the existence of a final adoption decree. In the case of a child of divorced or legally separated parents, the Service will find a U.S. citizen parent to have legal custody of a child, for the purpose of the CCA, where there has been an award of primary care, control, and maintenance of a minor child to a parent by a court of law or other appropriate government entity pursuant to the laws of the state or country of residence. The Service will consider a U.S. citizen parent who has been awarded "joint custody," to have legal custody of a child. There may be other factual circumstances under which the